



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

August 6, 1990
AO-90-28

William E. Fargo
80 Cambridge Road
Woburn, Massachusetts 01810

Dear Mr. Fargo:

This letter is in response to your request for an advisory opinion.

You have stated that you are a police officer in the City of Medford and that you wish to assist various local, state and county political candidates with their campaigns. You would like to know if there are any limits on your potential political activity during your off duty time.

You have posed several questions regarding the application of M.G.L. c.55 to your activities, for which we supply answers below.

1. May you donate money to a political candidate's campaign fund?

Section 15 of M.G.L. c.55 states, in part:

No officer, clerk or other person in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever.

As a person in the service of the City of Medford, you would be precluded by section 15 of M.G.L. c.55 from giving or delivering to any other person in the public service

(including an incumbent elected officeholder), any contribution. An opinion of the Attorney General (October 27, 1964) has interpreted section 15 as permitting the gift or delivery of a political contribution to a political committee organized on behalf of such a candidate, however. It is therefore the opinion of this office that you would be permitted to make a political contribution to a candidate's political committee.

2. May you solicit campaign funds on behalf of a political candidate?

Section 13 of M.G.L. c.55 states, in part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city, or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county, city or town, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has any interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility.

As a person employed for compensation by the City of Medford, you would be prohibited from soliciting campaign funds on behalf of a candidate, political committee or for any other political purpose. This prohibition remains in effect both during working hours and nonworking hours.

3. Do you have the option of holding office in local, state or national political organizations?

As described above, section 13 prohibits any person employed for compensation by the Commonwealth (or any political subdivision thereof) from directly or indirectly soliciting or receiving contributions for any political purpose. As noted above, you, as a compensated employee of the City of Medford, would be prohibited from undertaking fundraising activities on behalf of any candidate. This prohibition would include, but not be limited to, serving as treasurer of a candidate's committee, planning, directing or organizing fundraising activities, soliciting money from potential contributors and accepting contributions on behalf of a candidate. We would also caution you against acting as chairman of a political committee because such an officer often has fundraising responsibilities.

We would note, however, that Section 13 permits any person employed for compensation by the Commonwealth (or any political subdivision thereof) to be a member of a political committee. You could, therefore, hold office in any political organization, provided the responsibilities of such office did not entail fundraising activities. We would warn you, however, that the use of your name on any campaign literature soliciting contributions (including the letterhead of a political committee or advertisements placed by the committee) would constitute indirect solicitation on your part, and therefore prohibited by section 13.

4. May you host and/or introduce a political candidate at a political function?

As stated above, section 13 would prohibit the use of your name on a fundraising invitation. Thus you would be prevented from "hosting" a fundraiser. Likewise, it is the opinion of this office that the use of a public employee's home for a fundraising event would be considered an indirect solicitation by the employee and prohibited by section 13.

Section 13 does not prevent a public employee from attending or speaking at a fundraising event, however, provided the public employee does not solicit funds on behalf of the candidate for whom the fundraiser is being held. Thus, it is the opinion of this office that you may "introduce" a candidate at an event, provided (1) you are not listed as the host of the event and (2) you do not actively solicit contributions for such candidate as part of such introduction.

5. May you attend a political convention as a delegate?

No provision of M.G.L. c.55 would prohibit you from attending a political convention as a delegate.

You should also be aware of the following provisions of the campaign finance law:

Section 14 of M.G.L. c.55 states: "No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for purposes set forth in section thirteen."

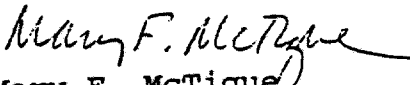
Section 16 of M.G.L. c.55 states: "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,


Mary F. McTigue
Director

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